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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,896	08/02/2000	Timothy J. Mousley	PHB 34, 390	7981
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EXAMINER GREY, CHRISTOPHER P				
ART UNIT 2474		PAPER NUMBER		
MAIL DATE 12/23/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/630,896

Applicant(s)

MOULSLEY ET AL.

Examiner

CHRISTOPHER P. GREY

Art Unit

2474

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 18, 19, 30, 33-36 and 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 18, 19, 30, 33-36 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/C.3)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. In view of applicant's amendment filed on 8/27/09 the status of the application is still pending with respect to claims 15, 18, 19, 30, 33-36, 41.

Response to Arguments

2. Applicant's arguments filed on 8/27/09 have been fully considered but they are not persuasive.

Regarding claim 15 and 30,

The applicant argued on page 8 of the applicants remarks that the cited art does not teach an indicated highest available data rate on a channel, let alone, an indicated highest available data rate on a random access channel, in view of the argument that Korpela teaches an indicated highest available data rate on a base station (according to Col 5 lines 6-7 of Korpela), not on a channel.

The examiner agrees with the applicant's statement that the indicated highest data rate is that of a base station as can be seen throughout several sections of the disclosure of Korpela. Korpela also states in Col 4 lines 54-56, the fact that the highest bit rate offered by the base station, is the bit rate offered on a single connection, where a connection is equivalent to a channel or path between the base station and a terminal. Cho is introduced to show that the status message can be designated for a random access channel, and when combined with the status message including a highest bit

rate indication of a connection of Korpela, achieves the purpose of terminals selecting a suitable base station to transmit data to such as stated in Korpela Col 3 lines 20-25.

Regarding claims 18, 19, 33-36 and 41. All other claims are argued for the same reasons of that of claim 15 and 30, so a therefore addressed above.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 15, 18, 19, 35, 30, 33, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho (WO 00/13426) in view of Korpela et al. (US 6167283), hereinafter referred to as Kor.

Regarding claim 15, Cho discloses a primary station (page 5, line 13, base station is equivalent to primary station) operable to transmit a random access channel status message (page 5 line 13 teaches a broadcast channel frame being generated) on each random access channel of a plurality of random access channels (page 6 lines 1-2, where the broadcast channel frame that contains channel status info is broadcast to all mobile stations on such an access channel);

a plurality of secondary stations (page 5 line 15, mobile station) operable to receive the random access channel status message (page 5 lines 15-16 where the

mobile receives the broadcast channel frame), wherein each secondary station **(page 5 line 15, mobile station)** is further operable to determine which random access channel to request **(page 5 lines 15-17, where the mobile selects which channel code based on availability, and then transmits a channel assignment request)** based on the random access channel status message **(page 5 lines 15-17, where the request is generated based on the reception of the broadcast channel message at the mobile)**;

Cho does not specifically disclose including an indicated highest available data rate.

Kor discloses including an indicated highest available data rate **(Col 6 lines 24-26, “the maximum available bit rate v indicated by a control message sent by the base station”)**.

It would have been obvious to one of the ordinary skill in the art at the time of the invention was disclosed to modify the process of allocating a transmission rate of Cho, as taught by Kor, since stated in Col 3 lines 20-25 that such a modification will be able to direct terminals to use a suitable cell if there are available cells that have different capacities.

Regarding claim 18.

Cho discloses wherein the random access channel status message **(page 5 line 13 teaches a broadcast channel frame being generated)** is transmitted by said primary station **(page 5, line 13, base station is equivalent to primary station)** as a part of a paging indicator channel **(the frame data of BCCH includes the PID of the mobile, which implies that the mobile station is**

pages from the network, the mobile station attempts a channel access and when the mobile requests the channel assignment for paging, the mobile station NR and AR fields indicating a reqd assigned band and an additional assigned band respectively are both set to 0 because the mobile does not know a band for processing traffic, thus indicating that the BCCH is transmitted as a part of paging and a band acquisition traffic as disclosed on page 11, lines 3-21).

Regarding claim 19. Cho discloses wherein the random access channel status message (**page 5 line 13 teaches a broadcast channel frame being generated**) is transmitted by said primary station (**page 5, line 13, base station is equivalent to primary station**) as a part of an acquisition indication channel (**the frame data of BCCH includes the PID of the mobile, which implies that the mobile station is pages from the network, the mobile station attempts a channel access and when the mobile requests the channel assignment for paging, the mobile station NR and AR fields indicating a reqd assigned band and an additional assigned band respectively are both set to 0 because the mobile does not know a band for processing traffic, thus indicating that the BCCH is transmitted as a part of paging and a band acquisition traffic as disclosed on page 11, lines 3-21**).

Regarding claim 30. Cho discloses transmitting from a primary, station (**page 5, line 13, base station is equivalent to primary station**), a random access channel status message (**page 5 line 13 teaches a broadcast channel frame being generated**) that includes information of each of a plurality of random access channels

(page 5 lines 13-15, where the status info is data specifying occupied or not for each code/channel);

receiving at a secondary station **(page 5 line 15, mobile station)**, the random access channel status message **(page 5 line 13 teaches a broadcast channel frame being generated);**

selecting **(page 5 line 15, “the mobile station selects”)** at the secondary station **(page 5 line 15, mobile station)**, a selected random access channel **(page 5 lines 15-18, where the channel code is selected and a channel request is sent on a RACH)** based on the received random access channel status message **(page 5 lines 15-17, where the request is generated based on the reception of the broadcast channel message at the mobile);**

requesting **(page 5 lines 15-17, where the mobile selects which channel code based on availability, and then transmits a channel assignment request)** by the secondary station **(page 5 line 15, mobile station)**, a selected **(page 3 lines 15-17, where the code is selected and RACH is thus requested)** random access channel **(page 5, the channel code, or channel is equivalent to the resource)** from the primary station **(page 5, line 13, base station is equivalent to primary station).**

Cho does not specifically disclose the information including an indicated highest available data rate.

Kor discloses the information **(Col 6 lines 24-26, where control information is equivalent to the status information taught by Cho)** including an indicated highest

available data rate (Col 6 lines 24-26, **“the maximum available bit rate v indicated by a control message sent by the base station”**).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was disclosed to modify the process of allocating a transmission rate of Cho, as taught by Kor, since stated in Col 3 lines 20-25 that such a modification will be able to direct terminals to use a suitable cell if there are available cells that have different capacities.

Regarding claim 33. Cho discloses wherein the random access channel status message (page 5 line 13 teaches a broadcast channel frame being generated) is transmitted by said primary station (page 5, line 13, base station is equivalent to primary station) as a part of a paging indicator channel (the frame data of BCCH includes the PID of the mobile, which implies that the mobile station is pages from the network, the mobile station attempts a channel access and when the mobile requests the channel assignment for paging, the mobile station NR and AR fields indicating a reqd assigned band and an additional assigned band respectively are both set to 0 because the mobile does not know a band for processing traffic, thus indicating that the BCCH is transmitted as a part of paging and a band acquisition traffic as disclosed on page 11, lines 3-21).

Regarding claim 34. Cho discloses wherein the random access channel status message (page 5 line 13 teaches a broadcast channel frame being generated) is transmitted by said primary station (page 5, line 13, base station is equivalent to primary station) as a part of an acquisition indication channel (the

frame data of BCCH includes the PID of the mobile, which implies that the mobile station is pages from the network, the mobile station attempts a channel access and when the mobile requests the channel assignment for paging, the mobile station NR and AR fields indicating a reqd assigned band and an additional assigned band respectively are both set to 0 because the mobile does not know a band for processing traffic, thus indicating that the BCCH is transmitted as a part of paging and a band acquisition traffic as disclosed on page 11, lines 3-21).

Regarding claim 35. Cho does not specifically disclose wherein the indicated highest available data rate serves to identify whether the corresponding random access channel is available, and identifies a highest available data rate for available channels of the plurality of random access channels.

Kor discloses wherein the indicated highest available data rate **(Col 6 lines 24-26, “the maximum available bit rate v indicated by a control message sent by the base station”)** serves to identify whether the corresponding random access channel is available **(Col 6 lines 24-26, where the word “available shows that this indication shows availability)**, and identifies a highest available data rate for available channels **(the channels b/w BS and terminals)** of the plurality of random access channels **(plurality of channels exist b/w base station and plurality of terminals).**

It would have been obvious to one of the ordinary skill in the art at the time of the invention was disclosed to modify the process of allocating a transmission rate of Cho, as taught by Kor, since stated in Col 3 lines 20-25 that such a modification will be able

to direct terminals to use a suitable cell if there are available cells that have different capacities.

5. Claims 36 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho (WO 00/13426) in view of Korpela et al. (US 6167283) in view of Persson et al. (US 6028851), hereinafter referred to as Persson.

Regarding claim 36. The combined teachings of Cho and Kor do not specifically disclose wherein the indicated highest available data rate of at least one available random access channel is lower than a highest data rate that could be made available to the at least one random access channel, based on a potential future demand for capacity.

Persson discloses wherein the indicated highest available data rate of at least one available random access channel is lower than a highest data rate that could be made available to the at least one random access channel, based on a potential future demand for capacity **(Col 5 lines 60-65, where the maximum data rate is determined from the capacity, therefore future max data rate can be higher than the current one depending on a capacity).**

It would have been obvious to one of the ordinary skill in the art at the time of the invention was disclosed to modify the combined teachings of Cho and Kor, as taught by Persson, since stated in Col 6 lines 10-15, that such a modification would eliminate the injection of needless interference into the system by mobiles seeking access to the system when the base station does not presently have capacity to allow the access.

Regarding claim 41, The combined teachings of Cho and Kor do not specifically disclose wherein the indicated highest available data rate of at least one available random access channel is lower than a highest data rate that could be made available to the at least one random access channel, based on a potential future demand for capacity.

Persson discloses wherein the indicated highest available data rate of at least one available random access channel is lower than a highest data rate that could be made available to the at least one random access channel, based on a potential future demand for capacity **(Col 5 lines 60-65, where the maximum data rate is determined from the capacity, therefore future max data rate can be higher than the current one depending on a capacity).**

It would have been obvious to one of the ordinary skill in the art at the time of the invention was disclosed to modify the combined teachings of Cho and Kor, as taught by Persson, since stated in Col 6 lines 10-15, that such a modification would eliminate the injection of needless interference into the system by mobiles seeking access to the system when the base station does not presently have capacity to allow the access.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER P. GREY whose telephone number is (571)272-3160. The examiner can normally be reached on 10AM-7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Moe Aung can be reached on (571)272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2474

/Christopher P Grey/
Examiner, Art Unit 2474